

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:08cv551**

JOE HAND PROMOTIONS, INC.,)	
)	
Plaintiff,)	
)	
Vs.)	MEMORANDUM AND
)	RECOMMENDATION
LARRY COLEMAN FITCH; NATHAN)	
DALE FITCH; and DAWGS SPORTS)	
BAR, LLC,)	
)	
Defendants.)	
<hr style="width:40%; margin-left:0"/>)	

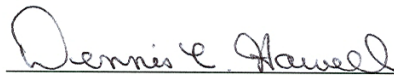
THIS MATTER is before the court upon defendant Nathan Dale Fitch's Motion to Dismiss. Review of such motion reveals that the motion, which is not annexed or a part of an answer (see Local Civil Rule 7.1(C)(1)), neither contains nor is supported by a Memorandum of Law as required by Local Civil Rule 7.1(C). Further review of the court's docket reveals that such defendant answered the Complaint some 19 days later in which such motions to dismiss were not therein asserted. Inasmuch as the moving party has failed to comply with the Local Civil Rules of this court, the undersigned is compelled to recommend that the Motion to Dismiss be denied without prejudice as it was not supported by a brief.

RECOMMENDATION

IT IS, THEREFORE, RESPECTFULLY RECOMMENDED that defendant Nathan Dale Fitch's Motion to Dismiss (#12) be summarily **DENIED** without prejudice for non-compliance with Local Civil Rule 7.1(C).

The parties are hereby advised that, pursuant to 28, United States Code, Section 636(b)(1)(C), written objections to the findings of fact, conclusions of law, and recommendation contained herein must be filed within **ten (10)** days of service of same. Failure to file objections to this Memorandum and Recommendation with the district court will preclude the parties from raising such objections on appeal. Thomas v. Arn, 474 U.S. 140 (1985), reh'g denied, 474 U.S. 1111 (1986); United States v. Schronce, 727 F.2d 91 (4th Cir.), cert. denied, 467 U.S. 1208 (1984).

Signed: March 2, 2009



Dennis L. Howell
United States Magistrate Judge

